

## 2001 DRAFTING REQUEST

### Assembly Amendment (AA-ASA1-SB55)

Received: 06/26/2001

Received By: isagerro

Wanted: As time permits

Identical to LRB:

For: Spencer Black (608) 266-7521

By/Representing: Susan McMurray

This file may be shown to any legislator: NO

Drafter: isagerro

May Contact:

Addl. Drafters:

Subject: Public Assistance - med. assist.

Extra Copies:

Submit via email: NO

Requester's email:

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Prohibit DHFS from recovering more than federal law permits under the MA estate recovery program

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#### Instructions:

See Attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/?	isagerro	6/28 kmg	6/28 pb	6/28 seb			

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b1846

## Assembly Democrat Budget Amendment Requests

Request number: 150

Agency: DHFS MA Estate Recovery

Description:

Attachments: See LFB Summary HFS & Insur.  
of Senate p. 7 item ~~2~~

Contact: Susan McMurray, Rep. Black's office 266-7521 or at  
home at 249-1167

— please draft an amdt to ASA 1 to SBSS  
~~that~~ to incorporate the MA Estate  
recovery provisions adopted by  
the Senate.

DAN

**6. MA SUPPLEMENT FOR CERTAIN MILWAUKEE NURSING HOMES**

	Chg. to JFC
GPR	\$3,116,000
FED	4,484,000
Total	\$7,600,000

Increase MA benefits funding by \$1,558,000 GPR and \$2,242,000 FED annually to provide supplemental payments to nursing homes in the City of Milwaukee that meet the following criteria: (a) the patient occupancy of the nursing home is at least 80% of the nursing home's licensed bed capacity; (b) more than 90% of the nursing home's residents are eligible for MA, including those who have dual eligibility for MA and Medicare; (c) the nursing home is not affiliated with a religious organization from which the nursing home receives operating support; (d) the nursing home is certified as a Medicare provider; and (e) at least 75% of the nursing home's employees are minority group members. Specify that funding for grants would be based on the total cost of the nursing home's services per MA patient or \$140 per MA patient day, whichever is less, less any other MA payment for care of MA residents:

Based on this criteria, it is likely that the following four Milwaukee facilities would be eligible to receive a supplement: Christopher East, Kilbourn Health Care Center, Plymouth Manor and Park Manor.

**7. MA ESTATE RECOVERY**

	Chg. to JFC
GPR	\$367,600
FED	548,400
PR	- 916,000
Total	\$0

Increase MA benefits funding by \$183,800 GPR and \$274,200 FED annually to offset the loss of revenues that would result by limiting the types of services that are subject to the state's medical assistance estate recovery program to only those services that are required by federal law and regulations. Reduce estimated collections by \$458,000 PR annually to reflect this change. Specify that this change would first apply to claims for recovery filed on the bill's general effective date.

*Conform  
w/  
Fed  
Law.*

Under current law, Wisconsin's estate recovery program authorizes recovery for the following services: (a) all MA benefits the recipient received while residing in a nursing home or inpatient hospital (if the recipient is considered an institutionalized recipient); (b) community-based MA waiver services received by a person age 55 or older and related inpatient hospital services and prescription drugs; and (c) home health services and personal care services if received by a person age 55 or older. The services under (a) and (b) are required to be part of a state's recovery program while the services listed in (c) are not.

*C*

**8. TREATMENT OF IRREVOCABLE BURIAL TRUSTS UNDER MA**

Increase the maximum amount of an irrevocable burial trust that may be excluded from an MA applicant's countable assets, from \$2,500 to \$3,000. Specify that this change would first apply to burial trust agreements entered into on July 1, 2003. Because of the initial applicability

date, this change would not have a fiscal effect in the current biennium. However, beginning in the 2003-04, it is estimated that this provision would increase MA costs by \$259,800 GPR and \$367,200 FED annually.

The Governor's budget would have provided \$207,800 GPR and \$293,800 FED in 2002-03 to increase the irrevocable burial limit to \$3,300, beginning on January 1, 2003. The Joint Committee on Finance deleted this provision from the bill. *3,000 not 3300*

Under current law, persons who are 65 years of age or older, blind or disabled may qualify for MA if their resources and income do not exceed specified limits. In determining whether an applicant meets the resource criteria, certain types of assets are excluded. One such excluded asset is an irrevocable trust used to fund a burial agreement with a value up to \$2,500. If an applicant has an irrevocable trust with a value that exceeds \$2,500, only the value of the trust that exceeds \$2,500 is considered a countable asset. MA law and regulations also exempt other burial assets from countable assets, such as a burial plot of any value and funeral insurance.

*Gov. recommended labor region adj.* **9. LABOR REGION ADJUSTMENTS FOR MA NURSING HOME REIMBURSEMENT**

Delete provisions in the substitute amendment that would repeal the requirement that DHFS establish standards for payment of allowable direct care costs that are adjusted by DHFS for regional labor cost variations. Consequently, DHFS would continue to use labor region adjustments in determining nursing home payment rates under the state's medical assistance program.

Under current law, DHFS is required to establish standards (targets) for payment of allowable direct care costs that are based on direct care costs for all facilities, as adjusted to reflect regional labor cost variations. DHFS establishes the direct care component of a facility's rate by comparing actual allowable direct care cost of the facility to the applicable direct care target. If a nursing home's actual allowable direct care costs are below the target, DHFS reimburses the nursing home for 100% of its costs. However, if a nursing home's actual costs exceed the target, DHFS only reimburses the nursing home for costs up to the target rate. In 2000-01, adjustments for labor costs had various effects on nursing homes, ranging from a 6% decrease in a facility's target, to an increase of 18%. If the labor cost adjustment were eliminated, there would be a redistribution of MA nursing home payments, but it would not affect the total level of MA payments made to nursing homes.

*Log 17* **10. PROHIBITED USE OF MA NURSING HOME REIMBURSEMENTS**

Prohibit nursing facilities that receive state funding under MA from using any of those funds to influence the decision of any individual to support or oppose a labor organization that represents or seeks to represent the individual or to become a member of a labor organization.

RM not run

SDC:.....Keckhaver - CN1523, Prohibit DHFS from recovering more than federal law requires for MA estate recovery program

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

~~CAUCUS SENATE~~ <sup>Assembly</sup> AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment as follows:

**1.** Page 208, line 6: increase the dollar amount for fiscal year 2001-02 by \$183,800 and increase the dollar amount for fiscal year 2002-03 by \$183,800 to increase funding for the purposes for which the appropriation is made.

**2.** Page 642, line 20: after that line insert:

**"SECTION 1833k.** 49.496 (3) (a) (intro.) of the statutes is amended to read:

49.496 (3) (a) (intro.) ~~Except as provided in par. (b), the~~ The department may not recover from the estate of a recipient any amount of medical assistance paid on behalf of the recipient, except that the department shall file a claim against the

1 estate of a recipient for all of the following unless already recovered by the  
2 department under this section:

3 **SECTION 1834g.** 49.496 (3) (a) 2. d. of the statutes is repealed.

4 **SECTION 1834j.** 49.496 (3) (a) 3. of the statutes is created to read:

5 49.496 (3) (a) 3. Any medical assistance services that are required to be  
6 recovered under 42 USC 1396p.

7 **SECTION 1834k.** 49.496 (3) (b) of the statutes is amended to read:

8 49.496 (3) (b) ~~–A–~~ Notwithstanding par. (a), a claim under par. (a) is not  
9 allowable if the decedent has a surviving child who is under age 21 or disabled or a  
10 surviving spouse.”.

11 **3.** Page 1399, line 20: after that line insert:

12 “(15x) MEDICAL ASSISTANCE ESTATE RECOVERY. The treatment of section 49.496  
13 (3) (a) (intro.), 2. d., and 3. and (b) of the statutes first applies to claims for recovery  
14 of medical assistance filed on the effective date of this subsection.”.

15 (END)